77th LEGISLATIVE ASSEMBLY
TASK FORCE ON APPRENTICESHIP IN STATE CONTRACTING
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TO: **President Peter Courtney**
Speaker Tina Kotek

RE: **Report from Task Force on Apprenticeship in State Contracting (SB 782, 2013)**

In 2013, the 77th Legislative Assembly enacted Senate Bill 782, which established a fourteen-member Task Force on Apprenticeship in State Contracting to address the need for increasing the number of trained individuals within the construction trades in Oregon. The measure established that apprenticeship is "an important component of post-secondary education and workforce development" and that the State of Oregon has a "strong interest in encouraging apprenticeship on public construction projects." The measure charged the Task Force with examining the possibility of initiating apprenticeship utilization standards for state agency construction projects, as has been done in other states such as Washington and California, and to consider other issues related to the enhancement and encouragement of Oregon's apprenticeship system. The final report of the Task Force is to be issued prior to the convening of the 2015 Legislative Assembly, at which time the Task Force sunsets.

The primary charge of the Task Force is to evaluate and make recommendations concerning apprenticeship utilization standards for state contracting agencies. During this process, the measure directed the group to consider the following:

- The economic impact of an apprenticeship utilization standard on contractors, the fiscal impact on contracting agencies, and strategies to minimize those impacts;
- Incentives and disincentives that could affect contractor compliance with the standard;
- Lowering, over a period of time, the contract price at which the standard would apply;
- Increasing, over a period of time, the percentage of total hours that apprentices must perform in apprenticeable occupations;
- Strategies for creating more diversity within the apprenticeship workforce;
- Methods for monitoring compliance with the standard;
- Identifying projects that may be exempted from the standard, and the circumstances under which an exemption might be offered, and;
- Whether and how to extend the standard to other public agencies.

In order to comply with the statutory directive to submit a report to the Legislative Assembly, the Task Force is submitting a summary of its work to date, including a summary of meeting topics

and discussions, overviews of possible approaches that were discussed, other attending issues that were considered, and data and other information collected.

The Apprenticeship in State Contracting Task Force has met seven times. At its first meeting in September 2013, the group organized, discussed the charge of the Task Force, and outlined informational topics to inform the discussion, beginning with briefings on the approach toward apprenticeship utilized currently in the State of Oregon, the State of Washington and by the Oregon Department of Transportation (ODOT). These three briefings constituted the agenda of the second meeting in November 2013. The third meeting, in January 2014, involved a closer analysis of how apprenticeship ratios are set within individual trades in Oregon, as well as the application and approval process for new apprenticeship programs. The fourth meeting (April 2014) included a tour of the IBEW Training Center in Tangent and interviews with training staff and apprentices about the training process within union shops, while the fifth meeting (May 2014) included a tour of instructional facilities at Chemeketa Community College (CCC), interviews with CCC faculty, and presentations by other non-union apprentice training staff. The sixth meeting, in September 2014, included testimony from several Oregon contractors that utilize apprentices, and a review of the five approaches to apprenticeship utilization analyzed by the Task Force (see below). The final meeting, in December 2014, was for consideration of possible recommendations and adoption of this report.

Five Approaches Considered by the Task Force

The Current Oregon Apprentice System is operated primarily through private funding and involves mandatory classroom training (140 hours per year), on-the-job training supervised by journey-level workers, and contract criteria based on industry standards. Training programs are developed and submitted to the Bureau of Labor and Industries (BOLI), which approves programs, establishes standards and curriculum, and performs compliance reviews to ensure adequate pay, education, training and supervision. Appropriate ratios of apprentices to journey workers are established and modified for each trade. There are currently about 140 apprentice programs across 54 occupations in Oregon. Applications for new apprentice programs require about 90 days for review and approval for existing trades, and about 180 days for review and approval in new trades. Most of the training programs are located in the Portland metro area and the Willamette Valley.

The Oregon Department of Transportation operates an apprentice training program established following the start of the third iteration of the Oregon Transportation Improvement Act (OTIA III) in 2003. While the original program was intended to mandate apprentice utilization, it was modified to instead provide an incentive to do so by paying for up to 15 percent of total hours worked by apprentices at $20/hour. Contractors bidding on construction projects may bid a certain percentage of their hours to apprentices, and then must report on those hours to ODOT; contractors failing to meet the bid requirement do not receive payment. The program does not include per-craft or subcontractor requirements for utilization, unless they are outlined within the contract for the project. The cost of the program to the agency is essentially administrative, with the difference in total project cost between contractors utilizing apprentices and those not doing so being negligible. ODOT reports that apprentice utilization through the program is approximately 11.3 percent.

The State of Washington program was first established by executive order in 2000 and later codified in 2005. The state requires at least 15 percent apprentice utilization on total labor hours on public improvement and construction projects exceeding $1 million. The state has approximately 150 active apprentice programs, training in 400 occupations; the total number of apprentices in Washington is about 10,000. The Washington State Department of Transportation (WSDOT) has an advisory committee for apprentice utilization on road projects, while the Washington Department of Labor and Industries provides assistance to programs. For projects exceeding $1 million, apprentice utilization requirements are outlined within the contract. The state lacks specified consequences in statute for failure to meet the requirement, and there is a lack of uniformity of implementation, with local jurisdictions enforcing their own rules. Incentives for utilization exist only for renewable energy projects. The state program also lacks any specific requirements related to diversity of the workforce.

The approach contained within Senate Bill 782-A (2013), as adopted by the Senate (but amended out of the measure prior to passage in the House and signature by the Governor), would have required state agencies (except ODOT) to utilize apprentices for at least 10 percent of hours on apprenticeable occupations for projects exceeding $5 million. This requirement was set to increase to 12 percent in 2018. Agencies were directed to pay contractors for imputed cost of compliance. Other provisions included: apprentices could be employed by one or more subcontractors; reporting requirements; and repayment by contractors of any amount paid by agencies in excess of amounts due for apprentice utilization.

A fifth approach, referred to as the *"Responsible Bidder Proposal,"* was put forward by the Oregon Chapter of the National Electrical Contractors Association (NECA). The proposal was to amend the existing "responsible bidder" requirement in ORS 279B.110 to specify that bidders be active training agent status in a BOLI-approved program as a minimum qualification to bid for certain public works projects. The proposal would otherwise maintain established apprenticeship ratios and built off the existing system, and was largely silent with regard to possible exceptions for minority and women-owned businesses or for contractors working in remote locations.

Additional Issues for Consideration

Economy – The recession of 2008-2009 provided a stark example of the impact that economic conditions have on the ability to train and employ apprentices. In a downturn, when contractors are struggling to find projects to bid on, there often is too little work for journey-level workers who depend on the work to make a living. Both the BOLI and representatives of the Washington Department of Labor and Industries report that the apprenticeship numbers reached their lowest point during the recession. Establishing apprenticeship utilization requirements would need to take into account periods when construction work is scarce.

Diversity – BOLI indicates that in 2013, approximately 16 percent of registered apprentices in Oregon were people of color, while 6.5 percent were women. Oregon has made it a priority to improve the chances of success for women- and minority-owned businesses, including contracting businesses; helping them enter the construction workforce through apprenticeship is a critical first step in that process.

Geographic balance – While most community colleges in Oregon provide some level of apprenticeship training, the vast majority of apprentice training programs, as well as the vast majority of construction projects, reside within the Willamette Valley and Portland metropolitan regions. This represents a barrier to entry for potential apprentices who live in other areas of the state, due not only to the distance they often must travel to receive their classroom training, but also due to either significant distances to job sites or, if they are unable to travel long distances, due to lack of applicable construction work for their apprentice training. Geography is also a barrier to apprentice utilization; one contractor reported that she would utilize more apprentices if they were willing and able to travel from the Portland area, where they receive their classroom training, to Hood River County where she has her business. She expressed a desire for the ability to train, employ and retain people locally through apprenticeship. Contractors in rural areas are also much less likely to be able to retain apprentices as journey-level workers once they receive their accreditation, which can act as a disincentive for contractors in rural areas to become training agents.

Administrative issues – While BOLI reports that the process for approving new apprentice training programs is relatively streamlined and efficient, there is a concern related to whether this would continue to be true if the number of programs, and their geographic distribution, were to suddenly increase. In addition, the administrative work necessary to comply with apprentice utilization requirements and the attending reporting requirements can be particularly difficult for some smaller contractors that lack the expertise and time to meet the requirements, which would be amplified were a rigid apprenticeship utilization requirement to be enacted.

Flexibility – Under Oregon's current apprentice system, apprentices on the jobsite are supervised by journey-level workers, with the apprentice-to-journey ratio specified by and for each of the trades. In some cases, if a journey-level worker misses work for some period of time, this can cause problems in complying with the oversight requirement, forcing an apprentice to miss work for lack of available supervision that day. In addition, concerns were raised that if an apprentice utilization standard were enacted that there would need to be care taken in determining whether the standard would apply for apprenticeable hours on the entire jobsite or for each trade on the jobsite, or whether (and how) the requirement should apply to subcontractors and if subcontractor utilization would apply to the general contractor hours on the jobsite.

Compliance – The general consensus is that the vast majority of contractors that currently utilize apprentices are good at complying with existing requirements, which lessens the need for harsh penalties for noncompliance. Concerns were raised about whether compliance with a more rigid apprentice utilization requirement would upset this balance, and that the possibility exists that rigid compliance requirements might be enforced by punitive penalties that could be a disincentive to contractors bidding on projects to which the requirement applied.

Capacity – The ability to accommodate a greater demand for apprentices depends not only on candidates seeking to participate, but also on available training programs and on the availability of applicable and varied work experience. The Task Force received testimony indicating that there is capacity to significantly increase the number of apprentices in terms of classroom training, in both existing training programs and within the community college system; in addition, new apprentice training programs could be created and seek BOLI approval. However,

as mentioned above, perhaps the primary issue in terms of the capacity of the training system is the availability of on-the-job work experience. In order to properly prepare apprentices, it is important not only for them to accrue a total number of on-the-jobsite hours, but also for those hours to provide the breadth of different work experience that the apprentice will need once they begin work at journey level. One training agent noted that while HVAC technician apprentices are easily employable on construction jobs, it is more problematic for contractors to send them on service calls, which without an apprentice would generally require only one worker, while sending both a journey-level worker and an apprentice significantly increases the cost to the contractor for the service call, a cost that cannot always be passed on to the customer.

Apprentice preparedness – The Task Force received testimony discussing the type of educational background necessary for people wanting to be an apprentice to be particularly good candidates. These skills depend on the type of apprenticeship program being considered, but can include math background, experience with tools, and an affinity for similar types of work. Students in high school today are less likely to have access to shop, drafting and similar classes, and are anecdotally less likely to be encouraged to seek careers in that direction. In addition, panelists testified that many students today lack basic tool skills compared to their counterparts in previous generations. Overall, there was general agreement that there needs to be greater emphasis at the state and school district level on career and technical education, as well as real pathways to apprenticeship.

<u>Recommendations</u>